

THE FULLER CASE

In Which H. Clay Evans Rules
Against the Law.

AND ENACTS A STATUTE

By Which He Deprives an Old Sailor
of the Allowance Made After
Twenty Years Service in Lieu of a
Home in the Naval Asylum—Evans
Calls the Allowance "A Service
Pension."

The GLOBE has been citing nothing but the laws of Congress against Commissioner Evans in his administration of the Pension Bureau. This morning we lay before Congress and the public the case of John Fuller. Nothing but the facts and the laws of Congress are alleged in this case, and yet any fair minded citizen can see for himself that H. Clay Evans has deliberately robbed John Fuller of the pension allowed him by the laws of the country under the subterfuge and untenable technicality that Seaman Fuller cannot draw two pensions. Evans knowingly misstates the facts in his allegations when he says John Fuller was in receipt of two pensions in the accepted and legal sense which govern and prohibit the receipt of but one pension. The gentleman calling our attention to this bald faced robbery of Fuller writes, among other things:

"The decision under which it is proposed to make reductions is one of the most outrageous, with the possible exception of decisions in the Daniel O'Leary case, ever emanating from the department. It affects men who served in the navy from twenty to fifty years and is an attempt to deprive them of money over which the Secretary of the Interior and the Commissioner of Pensions have no control, neither of them having any more right to interfere with its payment than you or I have. The bureau letter and the brief will explain the situation. Perhaps I should add that the scheme to defraud these old sailors and marines is due to Mr. Evans and by him submitted to the secretary, who instructed Campbell to render a decision to suit conditions."

Now here is Commissioner Evans' letter to Mr. Fuller, and the reader will note the manner in which this judge, jury and executioner ENACTS, ADMINISTERS AND EXECUTES the pension laws of the United States.

DEPARTMENT OF THE INTERIOR,
BUREAU OF PENSIONS,
WASHINGTON, D. C., November 19, 1901.

SIR: It appears from the records of this bureau that you were pensioned February 1, 1895, by certificate No. 22,107 under the provisions of section 4756 Revised Statutes of the United States (act of March 2, 1867) at the rate of \$30 per month from December 17, 1894, based on your service of more than twenty years in the U. S. Navy.

On February 14, 1896, your certificate was reissued under the general law and you were allowed \$10 per month from September 27, 1895, for right inguinal hernia, complete, incurred in service in line of duty as seaman, U. S. Ship "Vermont," U. S. Navy. Such pension was made concurrent with your above cited pension under section 4756 Revised Statutes and a reissue was made at the rate of \$30 per month from September 27, 1895, deducting all payments under the act of March 2, 1867, covering any portion of the same period.

You are informed that it is held by the Hon. Secretary of the Interior that while your allowance under section 4756 Revised Statutes is paid out of the Naval Pension Fund, it is nevertheless a service pension and that you cannot, under the law, receive that pension and one at the same time under any other law, as section 4715 Revised Statutes U. S. prohibits the payment of more than one pension at the same time to the same person, but gives the pensioner the right to elect which pension he will receive.

You are hereby notified under the provisions of the act of Congress of December 21, 1893, that you will be allowed a period of thirty days from receipt hereof in which to exercise the privilege of election allowed you by law. In the event of your election to receive pension under section 4756 Revised Statutes, your certificate will reissue thereunder at the rate of \$30 per month from date of last payment and your pension of \$10 per month under the general law will terminate. If you elect to receive pension under the general law, your certificate will reissue thereunder at the rate of \$10 per month from date of last payment and your pension of \$30 per month under section 4756 Revised Statutes will terminate. In the event of your failure to elect within the said period of thirty days this bureau will reissue your certificate under the law giving you the higher rate.

This letter should be returned with your reply and the envelope inclosing the same should be addressed to the Commissioner of Pensions and marked in the lower left-hand corner, "Board of Review."

Very Respectfully,
H. CLAY EVANS,
Commissioner.

Mr. JOHN FULLER,
809 "E" st., s. e., Washington, D. C.

And here is the reply of Mr. Fuller, which refutes every point raised by Evans and the Secretary of the Interior and conclusively proves that the laws of Congress—the statutory law of the land—is ignored by the administrators of the Pension Bureau (Evans solely and wholly) and Bureau law enacted by H. Clay Evans substituted therefor:

"In response to the letter of the Commissioner of Pensions, dated November 19, 1901, calling on me to elect whether I shall retain pension for disability or the allowance made me by the Navy Department for service, which he terms a service pension, I beg to state that I decline to relinquish my title to the pension for disability incurred in the service and line of duty, and I protest against your interfering with the allowance made to me by the Secretary of the Navy in lieu of a home in the Naval Asylum; in other words, the commutation allowed me to maintain myself while residing outside of said institution, title to which I gained by reason of more than twenty years' service in the United States Navy."

"In the letter sent me it is stated that 'it is held by the Secretary of the Interior that while your allowance under section 4756, Revised Statutes, is paid out of the navy pension fund, it is nevertheless a service pension, and that you cannot, under the law, receive that pension and one under any other law at the same time.'"

"I challenge the right of the Secretary of the Interior to make and enforce such a decision, and I question his authority to, in any manner, interfere with the payment to me of the allowance made me by the Secre-

tary of the Navy because of my non-acceptance of a home in the naval asylum."

"The Secretary of the Interior has not the power to either allow or reject my application for admission to the naval asylum, or an allowance of half pay in lieu of my becoming a beneficiary thereof. The Secretary of the Navy alone possesses such authority, and when he certified my name to the Commissioner of Pensions as having been allowed half pay in lieu of a home in the naval asylum, the latter must inscribe my name on the pension rolls and pay the allowance as it becomes due, and he has no other authority over it. The statute authorizing the payment of this allowance from the income from the naval pension fund makes a convenience of the Commissioner of Pensions by directing the placing of the names of beneficiaries on the pension roll, so as to secure payment to them through the agents for the payment of pensions connected with his bureau, this being the only function the Commissioner of Pensions and the Secretary of the Interior perform in connection with allowances made under Section 4756, Revised Statutes."

"It would, therefore seem that, as the Secretary of the Interior is not law officer of the Navy Department he has no authority rendering null and void, by his action or decision, the operation of an allotment made by the head of a department with which he has no connection, and whose action he is not authorized nor qualified to revise or set aside; therefore any decision he makes respecting Section 4756, Revised Statutes, is without force of law and invalid."

"The naval pension fund now exceeds thirteen millions of dollars, and belongs to the enlisted men of the United States Navy. I became the possessor of an interest in it through long and honorable service, there being two ways, by either of which, I can partake of the benefits of said interest. The first being acceptance of a home in the naval asylum, and the second, the acceptance of a money consideration in lieu of a home there. I can take my choice of either, and if I elect to receive the money and live outside the home it is not a service pension, and is not so designated in the statute, but is an allotment paid me in lieu of my being supported and cared for in the naval asylum. To deprive men who have served in the navy from twenty to fifty years of the benefits accruing to them because of such service and consequent shareholders in this fund upon the ground that the relief paid them is a service pension within the meaning of the general pension laws, and to subject their lawful rights to a game of battle-dore and shuttlecock at a time when they are far advanced in years appears to be most unjust, especially so when it is done without authority of law."

"Capable and competent officers of the department have heretofore passed on the question of the rights of twenty-year men to the allotment in lieu of a home in the Naval Asylum in addition to a disability pension and decided in their favor, and to be just and entertain proper regard for the lawful rights of the applicants they could not do otherwise. In the case of William Bealer the Navy Department held under date of August 23, 1897, that allowances made under act of March 2, 1867, are not pensions. A copy of this decision was filed in the department in the case of William Finley, United States Navy, and can be referred to or the department can obtain a copy of it from the Judge Advocate General United States Navy."

I submit that I am not in receipt of two pensions; that I have proved my title to the pension I now receive for disability incurred in the service and line of duty, and I deny your right to deprive me of it unless you can establish fraud on my part in securing it, and even then before you can suspend or drop me from the rolls you must acquaint me with the character and nature of the evidence warranting such action, something you have not done in this case. "I protest against any interference in the payment of the allotment made by the Secretary of the Navy to me in lieu of a home in the Naval Asylum. Especially do I protest against such interference on the part of persons having no control whatever over the allowance or rejection of such allotment and who are not vested with authority of law to control in any manner the allowance of said allotment."

"This allotment being paid to me in lieu of a home in the naval asylum is not a pension within the meaning of Section 4715, Revised Statutes, being merely an allowance made me out of a fund in which, by virtue of my long and faithful service, I became a shareholder, and which I am compelled to surrender whenever I take up my residence in the naval asylum."

"As a pensioner under the general pension laws the Secretary of the Interior is not possessed of the authority to deny me a home in the naval asylum because of my being in receipt of such pension, neither has he the power to deprive me of the money paid me on the certificate of the Secretary of the Navy whenever I elect to live outside the asylum in lieu of a home therein."

"It is noticed that pensioners under the general pension laws in receipt of aid from the naval pension fund under Section 4757, Revised Statutes, are not disturbed or interfered with in drawing such aid in addition to the pension, yet they draw such aid on account of ten years' service, while the man who has served from twenty to fifty years is punished by being deprived of the allowance the statutes entitle him to whenever he chooses to live outside the naval asylum, and such punishment is attempted by officials having no connection whatever with the granting of such allowance or with the department having sole authority over the question of my title to it. Congress never made or intended such discrimination against the man who served twenty to fifty years in favor of the man having but ten years' service. It appears absurd that the act of March 2, 1867, could in any possible way be so divided and construed into meaning that the man having twenty to fifty years' service should be deprived of the benefits of the naval pension fund because of being in receipt of a pension for disability, while the ten year man may draw such pension and relief from the naval pension fund in addition to it."

"The longer the service the greater the recognition in the army and navy and such is the object of Section 4756 Revised Statutes, to provide further provision for the comfort of disabled officers, seamen and marines. This language is plain and plainly means relief in addition to any other law made for them. The act of March 2, 1867, was enacted subsequent to the provision of law now known as Section 4715 Revised Statutes, and the language in the original act clearly shows that the authors of it carefully avoided the use of any language that could construe it into meaning provision for the payment of pension, thereby showing that Congress had in mind Section 4715 Revised Statutes and purposely framed the act of March 2, 1867,

so as to in no wise permit said section to curtail or interfere with its provisions."

"It will be seen by reference to the act of March 2, 1867, that nowhere in said act is the allowance provided for in lieu of a home in the naval asylum termed a pension nor even referred to as such. It is true that in Section 4756, the following language is used, 'and application for such pension shall be made to the Secretary of the Navy,' but said section is a re-enactment of the act of March 2, 1867, it must be apparent that the changed language was the result of a blunder. Previous to the passage of the act of March 2, 1867, no provision existed for the care and comfort of men who, after twenty years service in the navy, were physically disqualified for re-enlistment, did not partake of the benefit of a home in the naval asylum, and to afford such men relief is the object of Section 4756, Revised Statutes, which plainly says that if you do not desire to take up your home in the naval asylum the Navy Department will pay you in lieu thereof commutation at the rate of one-half the pay you were drawing when last discharged. Your long service makes you a shareholder in the naval pension fund, which belongs to the enlisted men of the United States Navy, and it is but just that the Congress of the United States recognizes your interest therein by making some provision for your care and comfort whenever you desire to live apart from the naval asylum. This being true and as heretofore stated, you have no more right to deprive me of such money than you have to deny me a home in the naval asylum because I draw a pension under the general pension laws, a right, I have no doubt, you will be candid enough to admit you do not possess. A sailor or marine drawing a pension under the general pension laws for disability incurred in the service and line of duty having the requisite number of years service to entitle him to admission to the naval asylum cannot be deprived of such pension because he takes up his home there and becomes its beneficiary, neither can he be deprived of such benefits because he is in receipt of a disability pension, so neither has the Secretary of the Interior or the Commissioner of Pensions the authority to deprive me of a home in the asylum, nor of the money allowed me, from a fund over which neither of them exercises the remotest control, in lieu of such home. Such allowance is not a service pension and is not paid me for service, but is allowed me as commutation, to assist in my support whenever I elect to live outside the naval home and is terminated, not by the authority of the Secretary of the Interior or the Commissioner of Pensions, but by direction of the Navy Department whenever I take up my residence in the Naval Home, and when the Secretary of the Interior decided that such allowance was a service pension he assumed authority he does not possess, in other words he interfered in a matter over which he has no control, and consequently his decision, so far as my naval rights are concerned, is without force of lawful authority."

"I therefore decline to voluntarily surrender the pension paid me for disability incurred in the service and line of duty and I protest against unlawful interference with the payment of the allotment made to me by the Secretary of the Navy in lieu of a home in the Naval Asylum."

"I submit this in response to the bureau letter, which I shall retain as I may have future use for it, and I have authorized my attorney, James E. Brophy, of Washington, D. C., to make such appeal to the Secretary of the Interior as he deems proper and this will operate as notice that such appeal has been taken. Very respectfully,

"JOHN FULLER."

PALACE OF THE DOGS.

A Correspondent's View of the Edifice and Some Remarks on the "Lion's Mouth."

I have always contended that the palace of the dogs in Venice was altogether the most satisfying gem of architecture that human hands have ever created. It is not too large to be taken in by a single glance; it is not too grand for the ordinary intellect to appreciate; but its colors, its carvings and its proportions all appeal to the senses as complete, perfect and harmonious, and if, as the poets have said, "architecture is frozen music," the palace of the dogs is a Beethoven symphony. It grows on one. Every time you look at it it seems more attractive than before and the longer you study it the greater the delight. Even the horrible cruelties and crimes with which it is associated do not detract from its beauty, but the thought often comes into the mind how men who lived within such artistic and sublime walls could be so wicked."

The most fascinating thing in all the palace, particularly to young girls and old ladies is "the lion's mouth," a slot in the wall at the portal where persons could drop communications intended for the secret council of ten, that omnipotent, relentless, vindictive authority which controlled the Venetian republic for centuries, and whose records were never kept. The open mouth of a lion was the aperture by which the secret letter box could be reached, and any person having information to give the council of ten deposited it in a sealed envelope in that place. The box was made of iron, imbedded in the walls and reached only by a secret door. It had two locks and could be opened only by the use of two keys, so that no member of the council could reach its contents alone and destroy any communication it contained without the knowledge of at least one other person."

If any citizen of Venice desired to get rid of an enemy or a rival he had only to denounce him in writing and drop the letter into the yawning jaws of the lion. Once accused, even by an unsigned note from a secret enemy, the victim had very little chance, for the members of the council of ten, like all other tyrants, were always guilty in the sight of their own consciences and took no chances. If a man accused of treason failed to prove his innocence he was guilty and went to the dungeon."

But John Howard, the great English prison reformer, declared that the dungeons connected with the palaces of the dogs, which have been the theme of so many writers of horrors, are the best he ever visited so far as sanitary conditions and comforts are concerned, and the famous Bridge of Sighs, which is associated with so many heart-rending romances and political intrigues, has recently been discovered to be an ordinary lumbering. It was never used for political prisoners, but only for the commonest kind of malefactors, ordinary jail birds, pickpockets and "drunk and disorderly" vagabonds. Political prisoners were confined within the palace of the dogs."

Dumlegh—It was an awful trial for me to make that speech tonight.

Midway—Don't mention it, old boy; just think what the rest of us suffered.

CURIOUS TALE

Which Tends to Establish the
Truth of Telepathy.

FATHER AND SON ARE KILLED

Heard Her Lover Call Her Name
Three Hundred Miles Away and at
That Hour He Breathed His Last.
She Reaches the Scene and Finds
His Corpse—Weird Story of Love
and Anger.

Believers in what is occult or telepathic will perhaps find no difficulty in accounting for the following occurrences in a Gagneau lumbering shanty. Ordinary mortals of conservative ideas find it not easy to explain them. The facts are vouched for by a clergyman.

A party of lumbermen were engaged in piling logs on Christmas Eve. They made the piles unusually high. The teamsters expostulated with the logrollers for doing so because of the danger to the lumbermen, if their canthooks should slip while they were rolling the heavy logs to such an elevation.

Joseph Gingras, a young French-Canadian, had just made some jesting reply when his foot slipped and the forty-inch thirteen-foot log slid down upon his shoulders and rolled over him to the ground. His companions carried him to the shanty, where he was immediately put to bed and made as comfortable as possible.

As night came on he fell into a kind of stupor. From this he awakened in a high fever, talking about his father.

"I knew you would come, I was sure of it, father mine. You had better hurry, step along, come quick, my father," he kept calling.

After a time he went on, "Keep away from that railway, don't rest there, get away from the logs. And then, in greatest excitement, 'There! just what I told you! Oh, he's killed, he's killed! I know it. Mon Dieu, it is mort!'"

With that a quantity of blood gushed from his mouth and he fell back in the rigor of fast approaching death. There was just one last sobbing cry, heard above the litany of his comrades as they knelt around him in the old habitation fashion, "Marie, oh, Marie!" and he had gone.

Perhaps it was natural that on Christmas Day some of the idle men should make their way to the pile of logs, the scene of the accident of the preceding day. But they were quite unprepared for what they found there.

During the night several of the logs had bulged out of their places in the heap and rolled down to the roadway. And underneath them, crushed into the snow and, of course, stone dead, was an elderly man, and nearby a little valise he had apparently set down while resting on the pile.

The body was carried to the shanty and laid in the next bunk to that occupied by Joseph Gingras' body. In trying to learn the man's identity the lumbermen discovered in one of his pockets this letter written by Joseph Gingras:

"My Dear Papa: All goes well so far, and now we are settled for the winter near Catfish Lake. You must know the place just near the Tomahawk portage road, three or four miles north of the lake. But yet I know not why I say, unless it be to forget Marie and her devilries. For the work I like not, and I am not here after all. No matter; the good God will not let him escape for what he has done to me with his lying tongue."

"And me? My father, you must do just this one thing for me. Come to me here. Come for the Noel sure. Maybe you will see me never more if you come not now. I did wrong to leave you, to persuade you not to come with me as before. Sure, sure, come for the Noel. Your affectionate one, 'JOSEPH.'"

So it was father and son killed within a few hours of each other at the same spot where they were lying in neighboring berths in the same shanty in the stillness of death at the Noel or Christmas tide.

Just two days later the clerk of the shanty and one of the teamsters were in the office awaiting their turn to report to the local manager of their employers' firm at River Desert, when they heard a voluble, showily clad woman asking where Joseph Gingras was employed.

Her sleigh was outside and she was distracted until she could reach that place. Monsieur would believe her, for truly, yes truly, she had been told in a vision of the night and in her own soul she felt that she was wanted.

Two or three days before she had heard her Joseph call to her, and go to him she would, to leave him never more, no matter what people said anymore. And the old man, Gingras, he had himself sent a boy to her house on Christmas Day to tell her to make haste and go to River Desert if she wanted to meet Joseph once more.

And the lumbermen were compelled to tell her that the bodies of father and son were even then on the sled at the door.

It was at 11 o'clock on Christmas Eve when Marie was putting on her wraps in the hallway of her room to go to midnight mass that she distinctly heard her lover call her name in agonizing tones, she fancied from the head of the stairs. At which hour the man she had parted from in anger because of evil reports of his sayings respecting her, was dying, 300 miles away, with her name upon his lips.

One of Sandow's Tricks

One day in a London tobacconist's shop Sandow, the strong man, was handed some change, and in the middle of it he saw something that looked like a had shilling. He pushed it back across the counter. "I think that one is bad," he said.

"Nonsense," said the shopkeeper with an incredulous air. He took up the shilling and tried it in the little brass coin tester that was screwed to the side of the counter. Then he tendered it again. "It's quite good," he said. "I can't bend it."

Sandow smiled and took it between his finger and thumb. "You can't bend it! May I try?" he asked.

"Certainly," said the man with a grin. The strong man pressed the tip of his forefinger toward the tip of his thumb and the spurious coin bent like tissue paper.

"Well," said the tobacconist dumfounded, it looks like a wrong one after all! Perhaps you will accept another?"

And Sandow did.

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